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**DATE:** March 2, 2025

**TO:** The Honorable David Counts, 200 East Wall Midland, TX, 79701

**FROM:** Sergeant Major Daniel R. Auxier, 105 Valley Road, Wantage, NJ 07461 and Mr. Marcos E. Monteiro, 5321 Dove Tree Street, Orlando, FL 32811

**SUBJECT:** Auxier v. Securities & Exchange Commission, Case No.: 7:24-CV-00318

For the Honorable Judge Counts,

We submit this letter with respect and appreciation for the Court's time and consideration.

On December 26, 2024, we—Sergeant Major Daniel R. Auxier and Mr. Marcos E. Monteiro—re-filed a substantially amended Complaint in the above-referenced matter (Case No. 7:24-CV-00318).

## 1. BACKGROUND

As Your Honor is likely aware, this case involves the well-documented and deliberate destruction of value in the Series A preferred shares of Meta Materials, Inc. (“Meta Materials”). This was not an accident. It was the result of calculated actions by multiple bad actors—both individuals and powerful private and public entities—including the Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA).

Because of this misconduct, tens of thousands of everyday investors, including us, have suffered substantial and ongoing harm. Over the past two years, our community has repeatedly sought intervention from Congress, sending more than 40,000 letters to elected officials. Despite these exhaustive efforts, Congress has taken virtually no action to address this injustice.

Due to this continued inaction, several retail investors—including us—have taken matters into our own hands by filing pro se lawsuits. Since submitting our amended Complaint, we have worked diligently to gather additional evidence, educate ourselves further, and consult with legal counsel to ensure we proceed properly and efficiently. We have now retained legal counsel, and our new attorney is actively reviewing the case materials, refining our legal arguments, and working to reformat the complaint for a forthcoming Second Amended Complaint.

## 2. SERVICE STATUS & JUSTIFICATION

We acknowledge that we have not yet effectuated service on the SEC. However, we are in the process of addressing this matter and anticipate taking the necessary steps to properly serve the agency within the next ninety (90) days. This delay is due to the emergence of critical new evidence that directly impacts our claims. Ensuring our case is as comprehensive and

SUBJECT: Auxier v. Securities & Exchange Commission, Case No.: 7:24-CV-00318

substantiated as possible before service is essential to the integrity and efficiency of these proceedings.

### **3. RECENT DEVELOPMENTS**

Significant new information has emerged that directly impacts the claims in our case against the SEC.

On August 9, 2024, Meta Materials Inc. filed for Chapter 7 bankruptcy in the U.S. Bankruptcy Court for the District of Nevada, case number 24-50792-hlb, presided over by Judge Hilary L. Barnes. The bankruptcy process is expected to result in disclosures that could provide critical evidence supporting our claims. Given the potential relevance of this information, waiting a short period before proceeding with our next filing is both prudent and necessary to ensure we have the most comprehensive case possible.

In late September 2024, the SEC announced charges against former Meta Materials CEOs John Brda and Georgios Palikaras (the “Brda Matter”). See: SEC Litigation Release No. 26035. This case has already led to the release of crucial new information. Just days ago, Brda filed a motion to exclude improperly obtained evidence in his defense, alleging serious misconduct by the SEC. See ECF No. 54 in the Brda Matter: Court Listener – Brda Case.

On November 22, 2024, the U.S. Court of Appeals for the District of Columbia Circuit ruled on *Alpine Securities Corp. v. FINRA*, case No. 23-5129. The court found that FINRA likely lacks the authority to expel brokerages on an expedited basis without prior SEC review. This ruling highlights a troubling pattern of regulatory overreach, reinforcing concerns that align closely with the issues in our case. Any rulings in *Alpine* may serve as relevant precedent.

Newly surfaced internal reports and communications from regulatory entities indicate a coordinated effort to manipulate the market for Meta Materials’ Series A preferred shares. A deeper examination of these documents is required to ensure their proper presentation before the Court. Additionally, FINRA’s handling of the MMTLP trading halt is wholly relevant to our case against the SEC. The justifications for the halt, failure to conduct a proper share count, and contradictions in statements regarding short selling highlight broader regulatory failures. These findings reinforce our claims of systemic misconduct and necessitate further legal scrutiny.

Given the intersection of these legal, financial, and regulatory proceedings, we believe it is in the best interest of justice to allow time for these matters to develop before proceeding to the next stage of our filings. This will enable us to incorporate all relevant findings and strengthen our case before refiling and effectuating service on the SEC. of these legal, financial, and regulatory proceedings, we believe it is in the best interest of justice to allow time for these matters to develop before proceeding to the next stage of our filings. This will enable us to incorporate all relevant findings and strengthen our case before refiling and effectuating service on the SEC.

SUBJECT: Auxier v. Securities & Exchange Commission, Case No.: 7:24-CV-00318

#### 4. CONCLUSION & NEXT STEPS

Given these recent developments and other unfolding events, we formally inform the Court that:

- We are actively reviewing newly surfaced materials that are critical to our case.
- We anticipate finalizing our case strategy within the next ninety (90) days.
- We intend to proceed with effectuating service on the SEC within that timeframe.

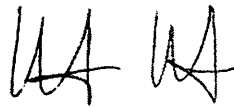
Our legal counsel is working through the case data and preparing a Second Amended Complaint to ensure the strongest possible presentation of our claims.

We respectfully request that the Court take note of these developments as we work to ensure that our case is presented in the most thorough and well-supported manner possible. Should Your Honor have any questions or require clarification, we remain available and will respond as promptly as possible.

Respectfully submitted,

Handwritten signature of SGM Daniel R. Auxier, with the text "SGM, USA" written to the right of the signature.

SGM Daniel R. Auxier

Handwritten signature of Mr. Marcos E. Monteiro, consisting of two stylized, overlapping initials.

Mr. Marcos E. Monteiro

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